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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,591	08/13/2001	Rei-Young Amos Wu	40002-10459	7907

7590 07/18/2002

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/18/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/928,591

Applicant(s)
Wu

Examiner
Lien Tran

Art Unit
1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 29, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 39-70 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 39, and 49-70 is/are rejected.
- 7) ☒ Claim(s) 40-48 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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1. Claims 42 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 42 is vague and indefinite. There seems to be a typographical error because claim 42 should be a part of claim 41 and not a claim by itself. There is no preamble and dependence in claim 42.

Claim 46 depends from claim 42 which is not a proper claim.

2. Claims 66-67 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support in the original disclosure for the limitation set forth in claims 66-67. There is no disclosure in the specification that the "edible food coating material is a powder that liquifies upon heating and then evaporates to absorb heat".

3. Claims 1,39,49-65 and 68-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leebens in view of Bartolomei et al.

Leebens discloses a process for making cereal flakes containing entrapped additives. The process comprises the steps of coating the cereal flakes with additives in powdered or granular form and then toasting the flakes at a temperature of about 350-400 degree F. The additives remains on or near the surface of the flake. (See example 1)

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Leebens does not disclose coating the flakes with a sugar coating, the additives being the materials as claimed in claims 56-59, the use of the sprayer or hopper and the moisture content as claimed.

Bartolomei et al disclose a method for preparing a sugar coated RTE cereal. They teach to coat the cereal flakes with a sugar solution comprising 20-50% sucrose, 0-30% corn syrup, 0-25% oil and 35-75% moisture. The sugar coating solution can also contain flavor constituent. After the flakes are coated with the sugar solution, they are toasted at 232 degreeC for about 1-3 minutes to a moisture content of about 2.5%. The coated flakes have an improved toasted flavor and an increased bowl life relative to an uncoated cereal flake. The sugar coated flakes exhibits superior flavor and crispness in milk resulting from the formation of a crust layer. (See example 1)

It would have been obvious to one skilled in the art at the time of the invention to coat the cereal flake of Leebens with the sugar coating solution as taught by Bartolomei et al to obtain the benefits taught by Bartolomei et al. Leebens does not disclose the toasting time and the moisture content; however, it would have been obvious to one skilled in the art to follow conventional toasting time to obtain conventional moisture content such as taught by Bartolomei et al. As to the type of additives, it would have been obvious to use any type of particulate additive depending on the flavor and taste desired. It would also have been obvious to use any known device to carry out the coating step; the use of sprayer or hopper is well known in the art. The use of a sticky material to aid in the attachment of the additive would have been obvious to one skilled in the art.

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It would also have been obvious to vary the amount of additive depending on the taste desired; this would have been a matter of preference.

4. Claims 40-48,66-67 are free of prior art because there is no suggestion in the prior art to coat a grain cake or a powder coating material that liquifies upon heating.
5. Applicant's arguments with respect to claims 1,39-70 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

July 11, 2002


LIEN TRAN
PRIMARY EXAMINER
Group 1702